
SENATE BILL 5201

State of Washington

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By Senators Bauer, Cantu, McAuliffe, Haugen, Winsley, Snyder, Loveland, Sheldon, Fairley, West, Long, Palmer, Schow, Moyer, Sellar, Rasmussen, Deccio, Heavey, Quigley, C. Anderson, Oke, Roach and Hale; by request of Governor Lowry

Read first time 01/13/95. Referred to Committee on Ways & Means.

1 AN ACT Relating to sales and use tax on manufacturing machinery and
2 equipment, pollution control equipment, and high technology research
3 and development; amending RCW 82.04.190, 82.60.070, 82.61.010, and
4 82.63.010; reenacting and amending RCW 82.60.020; adding new sections
5 to chapter 82.08 RCW; adding new sections to chapter 82.12 RCW; adding
6 a new section to chapter 82.63 RCW; creating new sections; repealing
7 RCW 82.61.020, 82.61.030, 82.61.040, 82.63.040, and 82.63.050;
8 providing an effective date; and declaring an emergency.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.08 RCW
11 to read as follows:

12 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
13 manufacturer or processor for hire of machinery and equipment used
14 directly in a manufacturing process, or to sales of or charges made for
15 labor and services rendered in respect to installing the machinery and
16 equipment, but only when the purchaser provides an exemption
17 certificate signed by the purchaser or the purchaser's agent, which
18 shall include a description of the machinery and equipment, the
19 purchase price, and additional information as the department may

1 require. The seller shall retain a copy of the certificate for the
2 seller's files and provide the department with either a duplicate of
3 the certificate or a summary of exempt sales as the department may
4 require.

5 (2) "Machinery" means a major mechanical device that performs an
6 essential function in a manufacturing process.

7 (3) "Equipment" means a device separate from machinery but
8 essential to a manufacturing process.

9 (4) "Machinery and equipment" does not include:

10 (a) Hand tools;

11 (b) Consumable supplies;

12 (c) Property with a useful life of one year or less;

13 (d) Property used to maintain or repair machinery and equipment;

14 (e) Repair parts required to restore machinery and equipment to
15 normal working order;

16 (f) Replacement parts that do not improve efficiency or extend the
17 useful life of the entire piece of machinery and equipment; or

18 (g) Property that is permanently affixed to and becomes a physical
19 part of a structure, including but not limited to machine foundations
20 and materials for their construction, and building utility systems for
21 heating, air conditioning, ventilation, plumbing, or electrical
22 distribution.

23 (5) Machinery and equipment is "used directly" in a manufacturing
24 process if the machinery and equipment:

25 (a) Effects a direct and immediate physical change upon tangible
26 personal property as part of a manufacturing process;

27 (b) Guides or measures a direct and immediate physical change upon
28 the property when the function is an integral and essential part of the
29 manufacturing process;

30 (c) Tests or measures the property when the function is an integral
31 and essential part of the manufacturing process;

32 (d) Transports, conveys, or handles the property from one step in
33 the manufacturing process to another; or

34 (e) Places the property in the container, package, or wrapping in
35 which the property is normally sold or transported when the function is
36 an integral and essential part of the manufacturing.

37 (6) "Manufacturing process" means the manufacturing of articles,
38 substances, or commodities for sale as tangible personal property or
39 for use as machinery and equipment in manufacturing articles,

1 substances, or commodities for sale as tangible personal property. The
2 manufacturing process begins when the raw materials enter the
3 manufacturing facility and ends when the finished product leaves the
4 manufacturing facility. The term does not include research and
5 development, the production of electricity, or the preparation of food
6 products on the premises of a person selling food products at retail.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.08 RCW
8 to read as follows:

9 (1) The tax levied by RCW 82.08.020 shall not apply to sales to a
10 manufacturer or processor for hire of pollution control equipment
11 required by federal or state laws or regulations to be installed and
12 used in a manufacturing facility to prevent or reduce air or water
13 pollution or contamination that might otherwise result from the
14 operation of the facility, or to sales of or charges made for labor and
15 services rendered in respect to installing the pollution control
16 equipment, but only when the purchaser provides an exemption
17 certificate signed by the purchaser or the purchaser's agent, which
18 shall include a description of the pollution control equipment, the
19 purchase price, and additional information as the department may
20 require. The seller shall retain a copy of the certificate for the
21 seller's files and provide the department with either a duplicate of
22 the certificate or a summary of exempt sales as the department may
23 require.

24 (2) This section shall not apply to sales of tangible personal
25 property, or sales of or charges made for labor and services, purchased
26 and used for maintenance or repairs of the pollution control equipment.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 82.12 RCW
28 to read as follows:

29 (1) The provisions of this chapter shall not apply in respect to
30 the use by a manufacturer or processor for hire of machinery and
31 equipment used directly in a manufacturing process.

32 (2) "Machinery" means a major mechanical device that performs an
33 essential function in a manufacturing process.

34 (3) "Equipment" means a device separate from machinery but
35 essential to a manufacturing process.

36 (4) "Machinery and equipment" does not include:

37 (a) Hand tools;

- 1 (b) Consumable supplies;
- 2 (c) Property with a useful life of one year or less;
- 3 (d) Property used to maintain or repair machinery and equipment;
- 4 (e) Repair parts required to restore machinery and equipment to
5 normal working order;
- 6 (f) Replacement parts that do not improve efficiency or extend the
7 useful life of the entire piece of machinery and equipment; or
- 8 (g) Property that is permanently affixed to and becomes a physical
9 part of a structure, including but not limited to machine foundations
10 and materials for their construction, and building utility systems for
11 heating, air conditioning, ventilation, plumbing, or electrical
12 distribution.

13 (5) Machinery and equipment is "used directly" in a manufacturing
14 process if the machinery or equipment:

15 (a) Effects a direct and immediate physical change upon tangible
16 personal property as part of a manufacturing process;

17 (b) Guides or measures a direct and immediate physical change upon
18 the property when the function is an integral and essential part of the
19 manufacturing process;

20 (c) Tests or measures the property when the function is an integral
21 and essential part of the manufacturing process;

22 (d) Transports, conveys, or handles the property from one step in
23 the manufacturing process to another; or

24 (e) Places the property in the container, package, or wrapping in
25 which the property is normally sold or transported when the function is
26 an integral and essential part of the manufacturing process.

27 (6) "Manufacturing process" means the manufacturing of articles,
28 substances, or commodities for sale as tangible personal property or
29 for use as machinery and equipment in manufacturing articles,
30 substances, or commodities for sale as tangible personal property. The
31 manufacturing process begins when the raw materials enter the
32 manufacturing facility and ends when the finished product leaves the
33 manufacturing facility. The term does not include research and
34 development, the production of electricity, or the preparation of food
35 products on the premises of a person selling food products at retail.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.12 RCW
37 to read as follows:

1 (1) The provisions of this chapter shall not apply in respect to
2 the use by a manufacturer or processor for hire of pollution control
3 equipment required by federal or state laws or regulations to be
4 installed and used in a manufacturing facility to prevent or reduce air
5 or water pollution or contamination that might otherwise result from
6 the operation of the facility.

7 (2) This section shall not apply to the use of tangible personal
8 property for maintenance or repairs of the pollution control equipment.

9 **Sec. 5.** RCW 82.04.190 and 1986 c 231 s 2 are each amended to read
10 as follows:

11 "Consumer" means the following:

12 (1) Any person who purchases, acquires, owns, holds, or uses any
13 article of tangible personal property irrespective of the nature of the
14 person's business and including, among others, without limiting the
15 scope hereof, persons who install, repair, clean, alter, improve,
16 construct, or decorate real or personal property of or for consumers
17 other than for the purpose (a) of resale as tangible personal property
18 in the regular course of business or (b) of incorporating such property
19 as an ingredient or component of real or personal property when
20 installing, repairing, cleaning, altering, imprinting, improving,
21 constructing, or decorating such real or personal property of or for
22 consumers or (c) of consuming such property in producing for sale a new
23 article of tangible personal property or a new substance, of which such
24 property becomes an ingredient or component or as a chemical used in
25 processing, when the primary purpose of such chemical is to create a
26 chemical reaction directly through contact with an ingredient of a new
27 article being produced for sale or (d) purchases for the purpose of
28 consuming the property purchased in producing ferrosilicon which is
29 subsequently used in producing magnesium for sale, if the primary
30 purpose of such property is to create a chemical reaction directly
31 through contact with an ingredient of ferrosilicon;

32 (2) Any person engaged in any business activity taxable under RCW
33 82.04.290 and any person who purchases, acquires, or uses any telephone
34 service as defined in RCW 82.04.065, other than for resale in the
35 regular course of business;

36 (3) Any person engaged in the business of contracting for the
37 building, repairing or improving of any street, place, road, highway,
38 easement, right of way, mass public transportation terminal or parking

1 facility, bridge, tunnel, or trestle which is owned by a municipal
2 corporation or political subdivision of the state of Washington or by
3 the United States and which is used or to be used primarily for foot or
4 vehicular traffic including mass transportation vehicles of any kind as
5 defined in RCW 82.04.280, in respect to tangible personal property when
6 such person incorporates such property as an ingredient or component of
7 such publicly owned street, place, road, highway, easement, right of
8 way, mass public transportation terminal or parking facility, bridge,
9 tunnel, or trestle by installing, placing or spreading the property in
10 or upon the right of way of such street, place, road, highway,
11 easement, bridge, tunnel, or trestle or in or upon the site of such
12 mass public transportation terminal or parking facility;

13 (4) Any person who is an owner, lessee or has the right of
14 possession to or an easement in real property which is being
15 constructed, repaired, decorated, improved, or otherwise altered by a
16 person engaged in business, excluding only (a) municipal corporations
17 or political subdivisions of the state in respect to labor and services
18 rendered to their real property which is used or held for public road
19 purposes, and (b) the United States, instrumentalities thereof, and
20 county and city housing authorities created pursuant to chapter 35.82
21 RCW in respect to labor and services rendered to their real property((-
22 ~~Nothing contained in this or any other subsection of this definition~~
23 ~~shall be construed to modify any other definition of "consumer"~~));

24 (5) Any person who is an owner, lessee, or has the right of
25 possession to personal property which is being constructed, repaired,
26 improved, cleaned, imprinted, or otherwise altered by a person engaged
27 in business;

28 (6) Any person engaged in the business of constructing, repairing,
29 decorating, or improving new or existing buildings or other structures
30 under, upon, or above real property of or for the United States, any
31 instrumentality thereof, or a county or city housing authority created
32 pursuant to chapter 35.82 RCW, including the installing or attaching of
33 any article of tangible personal property therein or thereto, whether
34 or not such personal property becomes a part of the realty by virtue of
35 installation; also, any person engaged in the business of clearing land
36 and moving earth of or for the United States, any instrumentality
37 thereof, or a county or city housing authority created pursuant to
38 chapter 35.82 RCW. Any such person shall be a consumer within the
39 meaning of this subsection in respect to tangible personal property

1 incorporated into, installed in, or attached to such building or other
2 structure by such person;

3 (7) Any person who is a lessor of machinery and equipment, the
4 rental of which is exempt from the tax imposed by RCW 82.08.020 under
5 section 1 of this act, with respect to the sale of or charge made for
6 tangible personal property consumed and for labor and services rendered
7 in respect to repairing the machinery and equipment;

8 (8) Any person who is a lessor of pollution control equipment, the
9 rental of which is exempt from the tax imposed by RCW 82.08.020 under
10 section 2 of this act, with respect to the sale of or charge made for
11 tangible personal property consumed and for labor and services rendered
12 in respect to repairing the pollution control equipment. Nothing
13 contained in this or any other subsection of this definition shall be
14 construed to modify any other definition of "consumer".

15 **Sec. 6.** RCW 82.60.020 and 1994 sp.s. c 7 s 704 and 1994 sp.s. c 1
16 s 1 are each reenacted and amended to read as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Applicant" means a person applying for a tax deferral under
20 this chapter.

21 (2) "Department" means the department of revenue.

22 (3) "Eligible area" means: (a) A county in which the average level
23 of unemployment for the three years before the year in which an
24 application is filed under this chapter exceeds the average state
25 unemployment for those years by twenty percent; (b) a metropolitan
26 statistical area, as defined by the office of federal statistical
27 policy and standards, United States department of commerce, in which
28 the average level of unemployment for the calendar year immediately
29 preceding the year in which an application is filed under this chapter
30 exceeds the average state unemployment for such calendar year by twenty
31 percent; (c) a designated community empowerment zone approved under RCW
32 43.63A.700; (d) a town with a population of less than twelve hundred
33 persons in those counties that are not covered under (a) of this
34 subsection that are timber impact areas as defined in RCW 43.31.601; or
35 (e) a county designated by the governor as an eligible area under RCW
36 82.60.047.

1 (4)(a) "Eligible investment project" means an investment in
2 qualified buildings or qualified machinery and equipment, and that
3 portion of an investment in a qualified cogeneration project which(+)

4 ~~(i))~~ is directly ((utilized)) used to create at least one new
5 full-time qualified employment position for each ((three hundred
6 thousand dollars of investment on which a deferral is requested in an
7 application approved before July 1, 1994, and for each)) seven hundred
8 fifty thousand dollars of investment on which a deferral is requested
9 ((in an application approved after June 30, 1994; and

10 ~~(ii) Either initiates a new operation, or expands or diversifies a~~
11 ~~current operation by expanding, equipping, or renovating an existing~~
12 ~~facility with costs in excess of twenty five percent of the true and~~
13 ~~fair value of the facility prior to improvement)), including labor and~~
14 ~~services rendered in the planning, installation, and construction of~~
15 the project.

16 (b) The lessor/owner of a qualified building is not eligible for a
17 deferral unless the underlying ownership of the buildings, machinery,
18 and equipment vests exclusively in the same person, or unless the
19 lessor by written contract agrees to pass the economic benefit of the
20 deferral to the lessee in the form of reduced rent payments.

21 ~~((b))~~ For purposes of (a)~~((i))~~ of this subsection, the number
22 of new full-time qualified employment positions created by an
23 investment project shall be deemed to be reduced by the number of full-
24 time employment positions maintained by the recipient in any other
25 community in this state that are displaced as a result of the
26 investment project.

27 (c) "Eligible investment project" does not include any portion of
28 an investment project undertaken by a light and power business as
29 defined in RCW 82.16.010(5), other than a qualified cogeneration
30 ~~project((s that are both an integral part of a manufacturing facility~~
31 ~~and owned at least fifty percent by the manufacturer)), or investment~~
32 projects which have already received deferrals under this chapter.

33 (5) ~~("Investment project" means an investment in qualified~~
34 ~~buildings or qualified machinery and equipment, including labor and~~
35 ~~services rendered in the planning, installation, and construction of~~
36 ~~the project.~~

37 ~~(6))~~ "Manufacturing" means all activities of a commercial or
38 industrial nature wherein labor or skill is applied, by hand or
39 machinery, to materials so that as a result thereof a new, different,

1 or useful substance or article of tangible personal property is
2 produced for sale or commercial or industrial use and shall include the
3 production or fabrication of specially made or custom made articles.
4 "Manufacturing" also includes computer programming, the production of
5 computer software, and other computer-related services, and the
6 activities performed by research and development laboratories and
7 commercial testing laboratories.

8 ~~((+7))~~ (6) "Person" has the meaning given in RCW 82.04.030.

9 ~~((+8))~~ (7) "Qualified buildings" means construction of new
10 structures, and expansion or renovation of existing structures for the
11 purpose of increasing floor space or productive capacity, where the
12 structures are used for manufacturing and research and development
13 activities, including plant offices and warehouses or other facilities
14 for the storage of raw material or finished goods if such facilities
15 are an essential or an integral part of a factory, mill, plant, or
16 laboratory used for manufacturing or research and development. If a
17 building is used partly for manufacturing or research and development
18 and partly for other purposes, the applicable tax deferral shall be
19 determined by apportionment of the costs of construction under rules
20 adopted by the department.

21 (8) "Qualified cogeneration project" means a cogeneration project
22 that is both an integral part of a manufacturing facility and owned at
23 least fifty percent by the manufacturer.

24 (9) "Qualified employment position" means a permanent full-time
25 employee employed in the eligible investment project during the entire
26 tax year.

27 (10) "Qualified machinery and equipment" means all new industrial
28 and research fixtures, equipment, and support facilities that are an
29 integral and necessary part of a manufacturing or research and
30 development operation. "Qualified machinery and equipment" includes:
31 Computers; software; data processing equipment; laboratory equipment;
32 manufacturing components such as belts, pulleys, shafts, and moving
33 parts; molds, tools, and dies; operating structures; and all equipment
34 used to control or operate the machinery.

35 (11) "Recipient" means a person receiving a tax deferral under this
36 chapter.

37 (12) "Research and development" means the development, refinement,
38 testing, marketing, and commercialization of a product, service, or
39 process before commercial sales have begun. As used in this

1 subsection, "commercial sales" excludes sales of prototypes or sales
2 for market testing if the total gross receipts from such sales of the
3 product, service, or process do not exceed one million dollars.

4 **Sec. 7.** RCW 82.60.070 and 1994 sp.s. c 1 s 5 are each amended to
5 read as follows:

6 (1) Each recipient of a deferral granted under this chapter prior
7 to July 1, 1994, shall submit a report to the department on December
8 31st of each year during the repayment period until the tax deferral is
9 repaid. Each recipient of a deferral granted under this chapter after
10 June 30, 1994, shall submit a report to the department on December 31st
11 of the year in which the investment project is certified by the
12 department as having been operationally completed, and on December 31st
13 of each of the seven succeeding calendar years. The report shall
14 contain information, as required by the department, from which the
15 department may determine whether the recipient is meeting the
16 requirements of this chapter. If the recipient fails to submit a
17 report or submits an inadequate report, the department may declare the
18 amount of deferred taxes outstanding to be immediately assessed and
19 payable.

20 (2) If, on the basis of a report under this section or other
21 information, the department finds that an investment project is not
22 eligible for tax deferral under this chapter for reasons other than
23 failure to create the required number of qualified employment
24 positions, the amount of deferred taxes outstanding for the project
25 shall be immediately due.

26 (3) If, on the basis of a report under this section or other
27 information, the department finds that an investment project for which
28 a deferral has been granted under this chapter prior to July 1, 1994,
29 has been operationally complete for three years and has failed to
30 create the required number of qualified employment positions, the
31 department shall assess interest, but not penalties, on the deferred
32 taxes for the project. The interest shall be assessed at the rate
33 provided for delinquent excise taxes, shall be assessed retroactively
34 to the date of deferral, and shall accrue until the deferred taxes are
35 repaid.

36 (4) If, on the basis of a report under this section or other
37 information, the department finds that an investment project for which
38 a deferral has been granted under this chapter after June 30, 1994, has

1 been operationally complete for three years and has failed to create
2 the required number of qualified employment positions, the amount of
3 taxes not eligible for deferral shall be immediately due. The
4 department shall assess interest at the rate provided for delinquent
5 excise taxes, but not penalties, retroactively to the date of deferral.

6 (5) If, on the basis of a report under this section or other
7 information, the department finds that an investment project qualifying
8 for deferral under RCW 82.60.040(1) (b) or (c) has failed to comply
9 with any requirement of RCW 82.60.045 for any calendar year for which
10 reports are required under subsection (1) of this section, twelve and
11 one-half percent of the amount of deferred taxes shall be immediately
12 due. The department shall assess interest at the rate provided for
13 delinquent excise taxes, but not penalties, retroactively to the date
14 of deferral.

15 (6) Notwithstanding any other subsection of this section, deferred
16 taxes on the following need not be repaid:

17 (a) Tangible personal property, and sales of or charges made for
18 labor and services, which at the time of purchase would have qualified
19 for exemption under section 1 or 2 of this act; and

20 (b) Tangible personal property which at the time of purchase would
21 have qualified for exemption under section 3 or 4 of this act.

22 **Sec. 8.** RCW 82.61.010 and 1994 c 125 s 1 are each amended to read
23 as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

26 (1) "Applicant" means a person applying for a tax deferral under
27 this chapter.

28 (2) "Person" has the meaning given in RCW 82.04.030.

29 (3) "Department" means the department of revenue.

30 (4) "Eligible investment project" means:

31 (a) Construction of new buildings and the acquisition of new
32 related machinery and equipment when the buildings, machinery, and
33 equipment are to be used for either manufacturing or research and
34 development activities, which construction is commenced prior to
35 December 31, (~~(1998)~~) 1995; or

36 (b) Acquisition prior to December 31, (~~(1998)~~) 1995, of new
37 machinery and equipment to be used for either manufacturing or research
38 and development if the machinery and equipment is housed in a new

1 leased structure. The lessor/owner of the structure is not eligible
2 for a deferral unless the underlying ownership of the buildings,
3 machinery, and equipment vests exclusively in the same person; or

4 (c) Acquisition of all new or used machinery, equipment, or other
5 personal property for use in the production or casting of aluminum at
6 an aluminum smelter or at facilities related to an aluminum smelter, if
7 the plant was in operation prior to 1975 and has ceased operations or
8 is in imminent danger of ceasing operations for economic reasons, as
9 determined by the department, and if the person applying for a deferral

10 (i) has consulted with any collective bargaining unit that represented
11 employees of the plant pursuant to a collective bargaining agreement
12 that was in effect either immediately prior to the time the plant
13 ceased operations or during the period when the plant was in imminent
14 danger of ceasing operations, on the proposed operation of the plant
15 and on the terms and conditions of employment for wage and salaried
16 employees and (ii) has obtained a written concurrence from the
17 bargaining unit on the decision to apply for a deferral under this
18 chapter; or

19 (d) Modernization projects involving construction, acquisition, or
20 upgrading of equipment or machinery, including services and labor,
21 which are commenced after May 19, 1987, and are intended to increase
22 the operating efficiency of existing plants which are either aluminum
23 smelters or aluminum rolling mills or of facilities related to such
24 plants, if the plant was in operation prior to 1975, and if the person
25 applying for a deferral (i) has consulted with any collective
26 bargaining unit that represents employees of the plant on the proposed
27 operation of the plant and the terms and conditions of employment for
28 wage and salaried employees and (ii) has obtained a written concurrence
29 from the bargaining unit on the decision to apply for a deferral under
30 this chapter.

31 (5) "Manufacturing" means all activities of a commercial or
32 industrial nature wherein labor or skill is applied, by hand or
33 machinery, to materials so that as a result thereof a new, different,
34 or useful substance or article of tangible personal property is
35 produced for sale or commercial or industrial use and includes the
36 production or fabrication of specially made or custom-made articles.

37 (6) "Research and development" means the development, refinement,
38 testing, marketing, and commercialization of a product, service, or
39 process before commercial sales have begun.

1 (7) "Buildings" means only those new structures used for either
2 manufacturing or research and development activities, including plant
3 offices and warehouses or other facilities for the storage of raw
4 materials or finished goods if such facilities are an essential or an
5 integral part of a factory, mill, plant, or laboratory used for
6 manufacturing or research and development purposes. If a building is
7 used partly for manufacturing or research and development and partly
8 for other purposes, the applicable tax deferral shall be determined by
9 apportionment of the costs of construction under rules adopted by the
10 department.

11 (8) "Machinery and equipment" means all industrial and research
12 fixtures, equipment, and support facilities that are an integral and
13 necessary part of a manufacturing or research and development
14 operation. "Qualified machinery and equipment" includes computers;
15 software; data processing equipment; laboratory equipment;
16 manufacturing components such as belts, pulleys, shafts, and moving
17 parts; molds, tools, and dies; operating structures; and all equipment
18 used to control or operate the machinery. For purposes of this
19 chapter, new machinery and equipment means either new to the taxing
20 jurisdiction of the state or new to the certificate holder. Used
21 machinery and equipment may be treated as new equipment and machinery
22 if the certificate holder either brings the machinery and equipment
23 into Washington or makes a retail purchase of the machinery and
24 equipment in Washington or elsewhere.

25 (9) "Qualified employment position" means a permanent full-time
26 employee employed in the eligible investment project during the entire
27 tax year.

28 (10) "Recipient" means a person receiving a tax deferral under this
29 chapter.

30 (11) "Certificate holder" means an applicant to whom a tax deferral
31 certificate has been issued.

32 (12) "Operationally complete" means constructed or improved to the
33 point of being functionally useable for the intended purpose.

34 (13) "Initiation of construction" means that date upon which on-
35 site construction commences.

36 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each
37 repealed:

38 (1) RCW 82.61.020 and 1987 c 497 s 2 & 1985 ex.s. c 2 s 2;

1 (2) RCW 82.61.030 and 1987 c 497 s 3 & 1985 ex.s. c 2 s 3; and
2 (3) RCW 82.61.040 and 1993 sp.s. c 25 s 408, 1988 c 41 s 2, 1986 c
3 116 s 10, & 1985 ex.s. c 2 s 8.

4 **Sec. 10.** RCW 82.63.010 and 1994 sp.s. c 5 s 3 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Advanced computing" means technologies used in the designing
9 and developing of computing hardware and software, including
10 innovations in designing the full spectrum of hardware from hand-held
11 calculators to super computers, and peripheral equipment.

12 (2) "Advanced materials" means materials with engineered properties
13 created through the development of specialized processing and synthesis
14 technology, including ceramics, high value-added metals, electronic
15 materials, composites, polymers, and biomaterials.

16 (3) "Applicant" means a person applying for a tax deferral under
17 this chapter.

18 (4) "Biotechnology" means the application of technologies, such as
19 recombinant DNA techniques, biochemistry, molecular and cellular
20 biology, genetics and genetic engineering, cell fusion techniques, and
21 new bioprocesses, using living organisms, or parts of organisms, to
22 produce or modify products, to improve plants or animals, to develop
23 microorganisms for specific uses, to identify targets for small
24 molecule pharmaceutical development, or to transform biological systems
25 into useful processes and products or to develop microorganisms for
26 specific uses.

27 (5) "Department" means the department of revenue.

28 (6) "Electronic device technology" means technologies involving
29 microelectronics; semiconductors; electronic equipment and
30 instrumentation; radio frequency, microwave, and millimeter
31 electronics; optical and optic-electrical devices; and data and digital
32 communications and imaging devices.

33 (7) "Eligible investment project" means (~~that portion of~~) an
34 investment project which either initiates a new operation, or expands
35 or diversifies a current operation by expanding, renovating, or
36 equipping an existing facility (~~with costs in excess of twenty five~~
37 ~~percent of the true and fair value of the facility prior to~~
38 ~~improvement~~). The lessor or owner of the qualified building is not

1 eligible for a deferral unless the underlying ownership of the
2 buildings, machinery, and equipment vests exclusively in the same
3 person, or unless the lessor by written contract agrees to pass the
4 economic benefit of the deferral to the lessee in the form of reduced
5 rent payments.

6 (8) "Environmental technology" means assessment and prevention of
7 threats or damage to human health or the environment, environmental
8 cleanup, and the development of alternative energy sources.

9 (9) "Investment project" means an investment in qualified buildings
10 or qualified machinery and equipment, including labor and services
11 rendered in the planning, installation, and construction or improvement
12 of the project.

13 (10) "Person" has the meaning given in RCW 82.04.030.

14 (11) "Pilot scale manufacturing" means design, construction, and
15 testing of preproduction prototypes and models in the fields of
16 biotechnology, advanced computing, electronic device technology,
17 advanced materials, and environmental technology other than for
18 commercial sale. As used in this subsection, "commercial sale"
19 excludes sales of prototypes or sales for market testing if the total
20 gross receipts from such sales of the product, service, or process do
21 not exceed one million dollars.

22 (12) "Qualified buildings" means construction of new structures,
23 and expansion or renovation of existing structures for the purpose of
24 increasing floor space or productive capacity, where the structures are
25 used for pilot scale manufacturing or qualified research and
26 development, including plant offices and other facilities that are an
27 essential or an integral part of a structure used for pilot scale
28 manufacturing or qualified research and development. If a building is
29 used partly for pilot scale manufacturing or qualified research and
30 development, and partly for other purposes, the applicable tax deferral
31 shall be determined by apportionment of the costs of construction under
32 rules adopted by the department.

33 (13) "Qualified machinery and equipment" means fixtures, equipment,
34 and support facilities that are an integral and necessary part of a
35 pilot scale manufacturing or qualified research and development
36 operation. "Qualified machinery and equipment" includes: Computers;
37 software; data processing equipment; laboratory equipment,
38 instrumentation, and other devices used in a process of experimentation
39 to develop a new or improved pilot model, plant process, product,

1 formula, invention, or similar property; manufacturing components such
2 as belts, pulleys, shafts, and moving parts; molds, tools, and dies;
3 vats, tanks, and fermenters; operating structures; and all other
4 equipment used to control, monitor, or operate the machinery. For
5 purposes of this chapter, qualified machinery and equipment must be
6 either new to the taxing jurisdiction of the state or new to the
7 certificate holder, except that used machinery and equipment may be
8 treated as qualified machinery and equipment if the certificate holder
9 either brings the machinery and equipment into Washington or makes a
10 retail purchase of the machinery and equipment in Washington or
11 elsewhere.

12 (14) "Qualified research and development" means research and
13 development performed within this state in the fields of advanced
14 computing, advanced materials, biotechnology, electronic device
15 technology, and environmental technology.

16 (15) "Recipient" means a person receiving a tax deferral under this
17 chapter.

18 (16) "Research and development" means activities performed to
19 discover technological information, and technical and nonroutine
20 activities concerned with translating technological information into
21 new or improved products, processes, techniques, formulas, inventions,
22 or software. The term includes exploration of a new use for an
23 existing drug, device, or biological product if the new use requires
24 separate licensing by the federal food and drug administration under
25 chapter 21, C.F.R., as amended. The term does not include adaptation
26 or duplication of existing products where the products are not
27 substantially improved by application of the technology, nor does the
28 term include surveys and studies, social science and humanities
29 research, market research or testing, quality control, sale promotion
30 and service, computer software developed for internal use, and research
31 in areas such as improved style, taste, and seasonal design.

32 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.63 RCW
33 to read as follows:

34 (1) Except as provided in subsection (2) of this section, taxes
35 deferred under this chapter need not be repaid.

36 (2) If, on the basis of a report under RCW 82.63.020 or other
37 information, the department finds that an investment project is used
38 for purposes other than qualified research and development or pilot

1 scale manufacturing at any time during the calendar year in which the
2 investment project is certified by the department as having been
3 operationally completed, or at any time during any of the seven
4 succeeding calendar years, a portion of deferred taxes shall be
5 immediately due according to the following schedule:

6	Year in which use occurs	% of deferred taxes due
7	1	100%
8	2	87.5%
9	3	75%
10	4	62.5%
11	5	50%
12	6	37.5%
13	7	25%
14	8	12.5%

15 The department shall assess interest at the rate provided for
16 delinquent taxes, but not penalties, retroactively to the date of
17 deferral.

18 (3) Notwithstanding subsection (2) of this section, deferred taxes
19 on the following need not be repaid:

20 (a) Tangible personal property, and sales of or charges made for
21 labor and services, which at the time of purchase would have qualified
22 for exemption under section 1 or 2 of this act; and

23 (b) Tangible personal property which at the time of purchase would
24 have qualified for exemption under section 3 or 4 of this act.

25 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
26 each repealed:

27 (1) RCW 82.63.040 and 1994 sp.s. c 5 s 6; and

28 (2) RCW 82.63.050 and 1994 sp.s. c 5 s 7.

29 NEW SECTION. **Sec. 13.** The department of revenue may make and
30 publish rules and regulations necessary to implement this act.

31 NEW SECTION. **Sec. 14.** The department of revenue shall perform an
32 assessment of the results of the tax exemptions authorized under this
33 act and deliver a report on the assessment to the governor and the
34 legislature by September 1, 1998. The assessment shall measure the

1 effect of the exemptions on the creation of jobs, diversification of
2 the state's economy, and other factors the department may select.

3 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
4 preservation of the public peace, health, or safety, or support of the
5 state government and its existing public institutions, and shall take
6 effect July 1, 1995.

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